

County, Texas, and her birth was registered there. Brenda Urtuzuastegui was born in McAllen, Hidalgo County, Texas and her birth was registered there. Both Arcelia and Brenda Urtuzuastegui currently live in Penitas, Hidalgo County, Texas, within the jurisdiction of this Court.

3. On information and belief, Plaintiffs assert that they are not in removal proceedings. Denying the applications for a United States Passport of Arcelia and Brenda Urtuzuastegui constitutes a denial of privilege on the basis that they are not “national[s] of the United States,” defined by 8 U.S.C. §1101(a)(22) to include “citizen[s] of the United States,” and is cognizable under 8 U.S.C. §1503.

II. THE PARTIES

4. The Plaintiffs are sisters. Arcelia Cristina Urtuzuastegui is a United States Citizen. She was born in San Juan, Hidalgo County, Texas in 1989. Plaintiff Brenda Isabel Urtuzuastegui is also a United States Citizen. She was born in McAllen, Hidalgo County, Texas in 1991. Both sisters currently reside at **** Uranium Street, Penitas, Hidalgo County, Texas.

5. Defendant John F. Kerry is the duly appointed Secretary of State of the United States. He is sued in his official capacity only.

III. THE FACTS

ARCELIA CRISTINA URTUZUASTEGUI

6. Arcelia Cristina Urtuzuastegui was born in 1989 in San Juan, Texas, with the assistance of a midwife, Sylvia Barrera. *Exhibit A (sealed), Doc. 1, incorporated herein.*

7. Her parents, Maria Cristina Ledesma Gomez and Jorge Luis Urtuzuastegui Ibarra, intended from the beginning to have their children in the United States. Both had border crossing cards. *Exhibit A (sealed), Doc. 2.*

8. Birth in a hospital, however, was too expensive. When Maria Cristina became pregnant with

Arcelia, she was talking with a student. The student told her about a midwife in San Juan, Texas, Sylvia Barrera. When she was about two or three months pregnant, she went to San Juan to meet Sylvia Barrera. After that, she went once a month for a checkup, while continuing to see a doctor in Reynosa, Tamps., Mexico. *Exhibit A (sealed), Doc. 3.*

9. The day before the birth, Maria Cristina felt pain; Jorge drove her across the bridge at Hidalgo to San Juan, to the midwife. The baby was born quickly, without difficulty and without complications. Arcelia was named after her father's mother, but when her parents received her birth certificate her name was spelled incorrectly. The name on the birth certificate was corrected. *Exhibit A (sealed), Doc. 3 and Doc. 1.*

10. Friends and family told Maria Cristina that she must register Arcelia in Mexico, otherwise when it came time to register her in school there would be a very large fee. Some people told Maria Cristina that if she did not register Arcelia in Mexico, the United States would come and take her away from her because Maria Cristina only had a border crossing card; she did not have papers to live in the United States. Maria Cristina believed them. When Arcelia was about three months old, her parents took her and had her birth registered in Mexico. *Exhibit A (sealed), Doc. 2, Doc. 4.*

10. Friends and family told Maria Cristina that since Arcelia had been born in the United States, she must get her inoculations in the United States. So Maria Cristina took Arcelia to McAllen for her inoculations. *Exhibit A (sealed), Doc. 5.*

11. Jorge's sister lived in Los Angeles. When Arcelia was four years old, the family went to visit Jorge's sister and had Arcelia baptised in Los Angeles. *Exhibit A (sealed), Doc. 6.*

12. In the meantime, when Arcelia was about two and a half years old, her sister, Brenda Isabel was born.

BRENDA ISABEL URTUZUASTEGUI

13. Brenda Isabel Urtuzuastegui was born in 1991 in McAllen, Texas, with the assistance of a midwife, Maria de los Angeles Pineda. *Exhibit A (sealed), Doc. 7.*

14. Before her birth, her parents, Maria Cristina Ledesma Gomez and Jorge Luis Urtuzuastegui Ibarra, knew they wanted her to be born in the United States, as her elder sister, Arcelia, had been two years earlier. *Exhibit A (sealed), Doc. 2.*

15. Maria Cristina could not contact or locate Sylvia Barrera, the midwife who had assisted at Arcelia's birth. She talked to a colleague who told her that she had an acquaintance who was a midwife, Maria de los Angeles Pineda, and gave her the contact information. Ms. Pineda lived and worked in McAllen, Texas. Maria Cristina contacted her and made an appointment. Then she did the same as she had done with Arcelia, viz. she continued to see her doctor in Reynosa, and went to McAllen on a monthly basis to be checked by Ms. Pineda. *Id.*

16. Unfortunately, at this time, Jorge was working in Sinaloa and was not home when Maria Cristina went into labor. She called a friend, Lourdes Garza, who came and picked her up and drove her to McAllen. Brenda too was born quickly and without complications, while Lourdes Garza waited outside. Shortly after the birth, Maria Cristina and the baby returned home. Ms. Garza wanted her to stay longer, but Maria Cristina's mother was not well, and she was worried about her. *Id.*

16. As soon as Maria Cristina returned to Reynosa with Brenda, she called Jorge. He flew home about four days later to see his new daughter. *Id.*

17. Brenda's parents followed the same course with her as with their first child, Arcelia. Brenda's birth was registered in Mexico when she was about two months old. *Exhibit A (sealed), Doc. 8.*

18. Brenda was taken to McAllen for her inoculations. *Exhibit A (sealed), Doc. 9.*

19. When Brenda was about two and a half years old, the family went to Los Angeles, California, to visit Jorge's sister. Brenda, with Arcelia, was baptised in Los Angeles, California at Our Lady Queen of Angels (Old Plaza Church). *Exhibit A (sealed), Doc. 10.*

20. Arcelia and Brenda Urtuzuastegui were raised in Mexico and attended school there. They crossed frequently to visit and shop in the United States. They were proud of being United States citizens and wanted to move here. In preparation for a move, they enrolled in and attended an English language course at University of Texas Pan American. In 2015, they started working in McAllen.

21. Arcelia applied for a United States passport on March 25, 2013. The response was a letter requesting more evidence of her birth in the United States. She responded with the documentation available. On September 22, 2014, she received a letter denying her application for a United States passport. Arcelia applied again for a United States passport in late 2015. On December 22, 2015, she again received a request for more documentation of her birth in the United States. She again responded with the documentation she had. The application was denied on May 11, 2016. *Exhibit A (sealed), Doc. 11.*

22. Brenda Urtuzuastegui applied for a United States passport on March 25, 2013. The response was a letter requesting more evidence of her birth in the United States. She responded with the documentation available. On September 22, 2014, she received a letter denying her application for a United States passport.

IV. CAUSES OF ACTION

DECLARATORY JUDGMENT PURSUANT TO 28 U.S.C. §2201 WITH JURISDICTION UNDER 8 U.S.C. § 1503(a)

23. Plaintiffs incorporate by reference allegations 1 through 22.

24. Plaintiffs have been denied rights and privileges claimed as nationals of the United States within the meaning of 8 U.S.C. §1503 by virtue of the denials of their applications for a United States Passport. Therefore, Plaintiffs are entitled to bring a declaratory judgment action, seeking a declaration that they are, indeed, United States Citizens, under 8 U.S.C. §1503.

V. PRAYER FOR RELIEF

WHEREFORE, it is respectfully requested that this Court:

- (1) issue a Declaratory Judgment declaring Arcelia Cristina Urtuzuastegui to be a United States Citizen;
- (2) issue a Declaratory Judgment declaring Brenda Isabel Urtuzuastegui to be a United States Citizen; and
- (2) award costs, attorney's fees, and such other and further relief as the Court may deem just and appropriate.

Respectfully Submitted,

s/ Cathy J. Potter

Cathy J. Potter

Attorney in Charge for Plaintiffs

Pennsylvania Bar 210071 Federal I.D. 1060322

Law Firm of Cathy J. Potter PLLC

203 South Commerce Street

Harlingen, Texas 78550

(956) 622-3011 Telephone

(956) 622-3017 Facsimile

cpotter.atty@gmail.com

VERIFICATION

I, Cathy J. Potter, hereby certify that I am familiar with the Plaintiffs' cases and that the facts as stated with respect thereto are true and correct to the best of my knowledge and belief.

s/ Cathy J. Potter